
UTAH LABOR COMMISSION

WILLIAM STERLING WOOSTER,

Petitioner,

vs.

**STAKER PAVING and LIBERTY
MUTUAL,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 04-1058

Staker Paving and its insurance carrier, Liberty Mutual, (referred to jointly as “Staker”) ask the Utah Labor Commission to review Administrative Law Judge Sessions’ award of benefits to William Sterling Wooster under the Utah Workers’ Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Wooster claims workers’ compensation benefits for a back injury that occurred at work on November 26, 2002. The parties stipulated to facts, waived a hearing, and requested that the only issue to be resolved (whether the recommended back surgery was related to Mr. Wooster’s work-related back injury), be submitted to a medical panel. Judge Sessions appointed a medical panel and after reviewing the panel’s report, awarded benefits.

In its motion for review, Staker argues that the medical panel’s opinion was not adequately explained and therefore the panel should be asked to clarify its opinion.

FINDINGS OF FACT

Judge Sessions adopted the parties’ stipulated facts. Those facts relevant to the motion for review are as follows:

On November 26, 2002, Mr. Wooster injured his back at work and was diagnosed with thoracic strain. Over the next year, Mr. Wooster continued to receive treatment for his back pain. In approximately September 2003, Mr. Wooster moved to Virginia, where he was seen by another doctor, Dr. Childs, for further treatment. By November 2003, however, Dr. Childs noted Mr. Wooster was reporting increased pain, particularly around the neck. On April 14, 2004, after reviewing an MRI taken the previous month, Dr. Childs recommended surgery.

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On June 4, 2004, Mr. Wooster was examined by Dr. Hughes, at Staker's request. Dr. Hughes' opinion was that Mr. Wooster's condition was not work-related, but caused by a preexisting degenerative condition.

The parties waived a hearing and requested that the stipulated facts and the medical record be submitted to a medical panel to determine whether the recommended surgery is necessary to treat Mr. Wooster's November 26, 2002, work injury. The medical panel's opinion was that "there is a direct medically demonstrable causal connection between the petitioner's current medical condition and the [work] incident." The panel stated that the recommended surgery would be reasonable care for Mr. Wooster's back injury that was still medically unstable.

DISCUSSION AND CONCLUSION OF LAW

The only issue on review is whether the medical panel's opinion provided a satisfactory explanation for its conclusions and is supported by the evidence. The panel, consisting of two medical specialists independent of either party, considered all the medical evidence and conducted a thorough examination of Mr. Wooster. The panel concluded that Mr. Wooster's back condition was medically caused by his work accident and that the recommended surgery would be reasonable and necessary treatment for the work injury. The Commission has reviewed the panel's report and finds it well-reasoned and persuasive. Therefore the Commission affirms Judge Sessions' determination that the recommended surgery for Mr. Wooster's back is reasonable and necessary for treatment of his November 26, 2002, work injury.

ORDER

The Commission affirms Judge Sessions' decision. It is so ordered.

Dated this 28th day of October, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.

